

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General

3 RON ESPINOZA, State Bar No. 176908
Deputy Attorney General

4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101

6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2141
Facsimile: (619) 645-2061

8 Attorneys for Complainant
9

10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2008-63

14 REBECCA ANN BLAIR-DUNHOFF
40625 Calle Fiesta
15 Temecula, CA 92591

**DEFAULT DECISION
AND ORDER**

16 Registered Nurse License No. 498260

[Gov. Code, §11520]

17 Respondent.
18

19 FINDINGS OF FACT

20 1. On or about August 22, 2007, Complainant Ruth Ann Terry, M.P.H., R.N.,
21 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs, filed Accusation No. 2008-63 against REBECCA ANN
23 BLAIR-DUNHOFF (Respondent) before the Board of Registered Nursing.

24 2. On or about March 31, 1994, the Board of Registered Nursing (Board)
25 issued Registered Nurse License No. 498260 to Respondent. The Registered Nurse License
26 expired on July 31, 2003, and has not been renewed.

27 3. On or about August 28, 2007, Sandra Sotelo, an employee of the
28 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.

1 2008-63, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
2 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
3 which was and is: 40625 Calle Fiesta, Temecula, CA 92591. A copy of the Accusation, the
4 related documents, and Declaration of Service are attached as Exhibit A, and are incorporated
5 herein by reference.

6 4. Service of the Accusation was effective as a matter of law under the
7 provisions of Government Code section 11505, subdivision (c).

8 5. On or about September 4, 2007, the aforementioned documents were
9 returned by the U.S. Postal Service marked "Not deliverable as addressed, unable to forward." A
10 copy of the envelopes returned by the post office is attached as Exhibit B, and is incorporated
11 herein by reference.

12 6. Business and Professions Code section 118 states, in pertinent part:

13

14 (b) The suspension, expiration, or forfeiture by operation of law of a
15 license issued by a board in the department, or its suspension, forfeiture, or
16 cancellation by order of the board or by order of a court of law, or its surrender
17 without the written consent of the board, shall not, during any period in which it
18 may be renewed, restored, reissued, or reinstated, deprive the board of its
authority to institute or continue a disciplinary proceeding against the licensee
upon any ground provided by law or to enter an order suspending or revoking the
license or otherwise taking disciplinary action against the license on any such
ground.

19 7. Government Code section 11506 states, in pertinent part:

20

21 (c) The respondent shall be entitled to a hearing on the merits if the
22 respondent files a notice of defense, and the notice shall be deemed a specific
23 denial of all parts of the accusation not expressly admitted. Failure to file a notice
of defense shall constitute a waiver of respondent's right to a hearing, but the
agency in its discretion may nevertheless grant a hearing.

24 8. Respondent failed to file a Notice of Defense within 15 days after service
25 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
26 Accusation No. 2008-63.

27 ///

28 ///

9. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

10. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A, B and C, finds that the allegations in Accusation No. 2008-63 are true.

11. The total costs for investigation and enforcement of this matter are \$2,070.25 as of October 4, 2007. The *Certification of Prosecution Costs: Declaration of Ron Espinoza* is attached hereto as Exhibit C.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent REBECCA ANN BLAIR-DUNHOFF has subjected her Registered Nurse License No. 498260 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation:

a. On or about October 28, 2003, in a criminal proceeding entitled *People v. Rebecca Ann Dunhoff*, Riverside County Superior Court, case number SWM019102, Respondent pled guilty and was convicted of violating Business and Professions Code section 4324, subdivision (a) [falsely passing as genuine a prescription for drugs], a misdemeanor.

b. Violation of Business and Professions Code section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in Code section 2762, subdivision (c), in that Respondent was convicted of a criminal offense involving the unlawful prescription of a controlled substance.

1 c. Violation of Business and Professions Code section 2761,
2 subdivision (a), on the grounds of unprofessional conduct as defined in section 2762, subdivision
3 (a) of the Code, in that Respondent unlawfully prescribed to herself controlled substances.

4
5 ORDER

6 IT IS SO ORDERED that Registered Nurse License No. 498260, heretofore
7 issued to Respondent REBECCA ANN BLAIR-DUNHOFF, is revoked.

8 Pursuant to Government Code section 11520, subdivision (c), Respondent may
9 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
10 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
11 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
12 statute.

13 This Decision shall become effective on January 28, 2008.

14
15 It is so ORDERED December 28, 2007

16
17 LaTranene W Tate

18 FOR THE BOARD OF REGISTERED NURSING
19 DEPARTMENT OF CONSUMER AFFAIRS

20
21
22
23
24
25 Default Decision and Order FINAL.wpd
DOJ docket number:SD2006801223

26 **Attachments:**

27 Exhibit A: Accusation No.2008-63, Related Documents, and Declaration of Service
28 Exhibit B: Copy of Envelopes Returned by Post Office
Exhibit C: Certification of Costs: Declaration of Ron Espinoza

Exhibit A

Accusation No. 2008-63,
Related Documents and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General

3 RON ESPINOZA, State Bar No. 176908
Deputy Attorney General

4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101

6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2100
Facsimile: (619) 645-2061

8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

14 REBECCA ANN BLAIR-DUNHOFF, R.N.
40625 Calle Fiesta
15 Temecula, CA 92591

16 Registered Nursing License No. 498260

17 Respondent.

Case No. 2008-63

OAH No.

A C C U S A T I O N

18
19 Complainant alleges:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H, R.N. (Complainant) brings this Accusation solely
22 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 2. On or about March 31, 1994, the Board of Registered Nursing issued
25 Registered Nursing License No. 498260 to Rebecca Ann Blair-Dunhoff (Respondent). The
26 Registered Nursing License expired on July 31, 2003, and has not been renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

....

7. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

....

///

1 (c) Be convicted of a criminal offense involving the prescription,
2 consumption, or self-administration of any of the substances described in
3 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
4 record pertaining to, the substances described in subdivision (a) of this section, in
5 which event the record of the conviction is conclusive evidence thereof.

6
7
8 8. Section 482 of the Code states:

9 Each board under the provisions of this code shall develop criteria to
10 evaluate the rehabilitation of a person when:
11

12 (b) Considering suspension or revocation of a license under Section 490.

13 Each board shall take into account all competent evidence of rehabilitation
14 furnished by the applicant or licensee.

15 9. Section 490 of the Code states:

16 A board may suspend or revoke a license on the ground that the licensee
17 has been convicted of a crime, if the crime is substantially related to the
18 qualifications, functions, or duties of the business or profession for which the
19 license was issued. A conviction within the meaning of this section means a plea
20 or verdict of guilty or a conviction following a plea of nolo contendere. Any
21 action which a board is permitted to take following the establishment of a
22 conviction may be taken when the time for appeal has elapsed, or the judgment of
23 conviction has been affirmed on appeal, or when an order granting probation is
24 made suspending the imposition of sentence, irrespective of a subsequent order
25 under the provisions of Section 1203.4 of the Penal Code.

26 10. Section 493 of the Code states:

27 Notwithstanding any other provision of law, in a proceeding conducted by
28 a board within the department pursuant to law to deny an application for a license
or to suspend or revoke a license or otherwise take disciplinary action against a
person who holds a license, upon the ground that the applicant or the licensee has
been convicted of a crime substantially related to the qualifications, functions, and
duties of the licensee in question, the record of conviction of the crime shall be
conclusive evidence of the fact that the conviction occurred, but only of that fact,
and the board may inquire into the circumstances surrounding the commission of
the crime in order to fix the degree of discipline or to determine if the conviction
is substantially related to the qualifications, functions, and duties of the licensee in
question.

As used in this section, 'license' includes 'certificate,' 'permit,'
'authority,' and 'registration.'

11. California Code of Regulations, Title 16, section 1444 states:

A conviction or act shall be considered to be substantially related to the
qualifications, functions or duties of a registered nurse if to a substantial degree it

1 evidences the present or potential unfitness of a registered nurse to practice in a
2 manner consistent with the public health, safety, or welfare. Such convictions or
acts shall include but not be limited to the following:

3

4 (c) Theft, dishonesty, fraud, or deceit.

5

6 12. California Code of Regulations, Title 16, section 1445 states:

7

8 (b) When considering the suspension or revocation of a license on the
9 grounds that a registered nurse has been convicted of a crime, the board, in
evaluating the rehabilitation of such person and his/her eligibility for a license will
10 consider the following criteria:

11 (1) Nature and severity of the act(s) or offense(s).

12 (2) Total criminal record.

13 (3) The time that has elapsed since commission of the act(s) or
offense(s).

14 (4) Whether the licensee has complied with any terms of
15 parole, probation, restitution or any other sanctions lawfully
imposed against the licensee.

16 (5) If applicable, evidence of expungement proceedings
17 pursuant to Section 1203.4 of the Penal Code.

18 (6) Evidence, if any, of rehabilitation submitted by the licensee.

19 13. Section 125.3 of the Code provides, in pertinent part, that the Board may
20 request the administrative law judge to direct a licensee found to have committed a violation or
21 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
22 and enforcement of the case.

23 DRUGS

24 14. Vicodin ES, a brand name for hydrocodone and acetaminophen, is a
25 Schedule III controlled substance pursuant to Health and Safety Code Section 11056(c).

26 15. Ativan, a brand name for lorazepam, is a Schedule IV controlled substance
27 pursuant to Health and Safety Code section 11057(d)(13).
28

1 16. Ambien, a brand name for zolpidem, is a Schedule IV controlled substance
2 pursuant to Health and Safety Code section 11057(d)(32).

3
4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Criminal Conviction – Prescription Forgery – October 28, 2003)**

6 17. Respondent has subjected her license to disciplinary action under Code
7 sections 490 and 2761, subdivision (f), in that she was convicted of a crime that is substantially
8 related to the qualifications, functions, and duties of a Registered Nurse. The circumstances are
9 as follows:

10 a. On or about October 28, 2003, in a criminal proceeding entitled
11 *People v. Rebecca Ann Dunhoff*, Riverside County Superior Court, case number SWM019102,
12 Respondent plead guilty to violating Business and Professions Code section 4324(a) [falsely
13 passing as genuine a prescription for drugs], a misdemeanor.

14 b. As a result of the conviction, on or about October 28, 2003, the
15 court sentenced Respondent to serve five days in the county jail, summary probation for three
16 years, payment of fees and fines, and completion of 40 Narcotics Anonymous meetings.

17 c. The circumstances that led to the conviction were that on or about
18 May 7, 2003, a Riverside County Sheriff's Deputy was dispatched to a Temecula Sav-On
19 pharmacy to investigate a prescription forgery. During the investigation, it was discovered that
20 on this date, a prescription for 40-count Vicodin ES (extra strength) had been called in by
21 "Sandi" from "Dr. S's" office for Rebecca Dunhoff (Respondent). When an employee at the
22 pharmacy called "Dr. S's" office to verify the prescription, she learned that "S" did not work
23 there. The pharmacy employee checked the billing information and discovered that Respondent
24 had just been billed for the same prescription at another Sav-On pharmacy. When she called the
25 other pharmacy, it was learned that the Vicodin ES prescription called into that location was also
26 not authorized. During the investigation, it was also discovered that a second prescription for
27 "Avitan 1 mg" had been called in for Respondent by "Natalie" from a "Dr. B's" office. The
28 deputy sheriff later confirmed that a "Natalie" did not work for "Dr. B." In a follow-up

1 investigation by the deputy starting on May 23, 2003, based on interviews with Sav-On pharmacy
2 personnel and doctors, it was discovered that Respondent had been phoning-in forged
3 prescriptions for herself under a number of different aliases, and using the names of at least five
4 different doctors, to obtain Schedule III and IV narcotics (Vicodin ES, Ativan, and Ambien).

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct – Unlawful Prescription of Controlled Substance)**

7 18. Respondent has subjected her license to disciplinary action under Code
8 section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in Code
9 section 2762, subdivision (a), in that she unlawfully prescribed to herself controlled substances as
10 set forth in paragraph 17 above.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct –**

13 **Criminal Conviction Involving Unlawful Prescription of Controlled Substance)**

14 19. Respondent is subject to disciplinary action under Code section 2761,
15 subdivision (a), on the grounds of unprofessional conduct as defined in Code section 2762,
16 subdivision (c), in that she was convicted of a criminal offense involving the unlawful
17 prescription of a controlled substance as set forth in paragraph 17 above.

18
19 **PRAAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein
21 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nursing License Number 498260,
23 issued to Rebecca Ann Blair-Dunhoff;

24 2. Ordering Rebecca Ann Blair-Dunhoff to pay the Board of Registered
25 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
26 Business and Professions Code section 125.3;

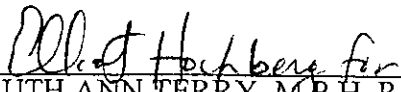
27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Taking such other and further action as deemed necessary and proper.

DATED: 8/22/07


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2006801223

80153682.wpd